

(m) [(n)] a nucleic acid sequence encoding the full-length Interleukin-20 protein having the amino acid sequence encoded by the cDNA clone contained in ATCC Deposit No. 209232;

(n) [(o)] a nucleic acid sequence encoding the full-length Interleukin-20 protein, excluding the N-terminal methionine residue, having the amino acid sequence encoded by the cDNA clone contained in ATCC Deposit No. 209232; and

B₁ (o) [(p)] a nucleic acid sequence encoding the mature Interleukin-20 having the amino acid sequence encoded by the cDNA clone contained in ATCC Deposit No. 209232[;].

[(q)] a nucleic acid sequence complementary to any of the nucleic acid sequences in (a), (b), (c), (d), (e), (f), (g), (h), (i), (j), (k), (l), (m), (n), (o) or (p), above.]

B₂ ~~29~~ ~~48~~ (Once Amended) A composition comprising the polynucleotide of claim ~~22~~ in a pharmaceutically acceptable carrier.

Remarks

Upon entry of the present amendment, claims 23-38 and 41-48 will be pending in the instant application. The title and the claims have been amended to more particularly point out and distinctly claim the subject matter Applicants regard as the invention. Amended claims 23 and 48 find support in the claims as originally filed and throughout the specification. Specifically, support for amended claim 48 is found, for example, at page 5, lines 13-17; at page 42, line 22 through page 44, line 27. Thus, no new matter has been introduced.

I. Formal Matters.

The Examiner has objected to the title of the present application as allegedly not being descriptive. (See, Paper No. 12, Page 2, Paragraph 3.) In particular, the Examiner requires a new title that is "clearly indicative of the invention to which the claims are directed."

Although Applicants respectfully disagree, and solely in the interest of facilitating prosecution, Applicants have amended the title of the present application essentially as suggested by the Examiner.

II. Objections to the Claims and Rejections of the Claims under 35 U.S.C. §112, Second Paragraph.

A. The Examiner has rejected claim 48 under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite. (*See*, Paper No. 12, Pages 2-3, Paragraph 4a.) Specifically, the Examiner contends that "[t]he preamble of the claim refers to a composition, but only one element is recited."

Applicants respectfully disagree and traverse. However, in the interest of facilitating prosecution, Applicants have amended claim 48 to recite the second element of a pharmaceutically acceptable carrier.

The Examiner also objects to claim 48 by contending that it "is a substantial duplicate of claim 23 despite slight differences in wording, and because it fails to further limit the invention of claims [sic] 23 (See MPEP 706.03 (k) and 2173 (o))."

Applicants respectfully disagree and traverse.

Applicants assert that claim 23 is directed to a polynucleotide, whereas, while claim 48 (as amended) is also directed to a polynucleotide, it is further limited in that it also comprises a pharmaceutically acceptable carrier. As provided in M.P.E.P. § 706.03(k), Applicants have the right to restate the invention in a reasonable number of ways. The M.P.E.P. also indicates that, for example, "a mere difference in scope between claims has been held to be enough" to permit a plurality of claims. Applicants assert that claim 48 (as amended) and claim 23 differ in scope and are therefore not duplicative.

Applicants respectfully assert that because claim 48 (as amended) and claim 23 are not duplicative, the rejection of claim 48 under 35 U.S.C. § 112, second paragraph, has been obviated. Accordingly, Applicants respectfully request that the rejection be withdrawn.

B . The Examiner also rejected claims 23(q) and 40 under 35 U.S.C. § 112, second paragraph, as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter that Applicants regard as the invention. (See, Paper No. 12, Page 3, Paragraph 4a.) In particular, the Examiner contends that:

[t]he claims are indefinite, ambiguous, confusing and/or are also non-enabling in referring to the complement of the polynucleotides of parts a, b, and c, because each of these part [sic] refer to a polynucleotide that is defined in terms of an encoded amino acids sequence, but the complement would not be expected to satisfy this limitation.

Applicants respectfully disagree and traverse. Applicants assert that the scope of the previously pending claims directed to complementary polynucleotide sequences is clear to a hypothetical person possessing an ordinary level of skill in the art. Additionally, Applicants submit that on the priority date of the instant application, one skilled in the art, enlightened by the teaching of the present application, could routinely make and use the complementary polynucleotides encompassed by the rejected claims. However, solely in the interest of expediting prosecution, Applicants have deleted those embodiments of the claims containing the language rejected by the Examiner. Accordingly, this rejection has been obviated and should be withdrawn.

III. Rejections of the Claims under 35 U.S.C. §112, First Paragraph.

The Examiner has rejected claims 23(m) and 36 under 35 U.S.C. § 112, first paragraph, as allegedly not enabling any person skilled in the art to make and use with a reasonable expectation of success the invention commensurate in scope with these claims. (See, Paper No. 12, Pages 3-5, Paragraph 4b.) In particular, the Examiner contends that:

the specification, while being enabling for how to make and use nucleic acids and nucleic acid fragments thereof, does not reasonably provide enablement for claims to nucleic acid sequences that encode for any fragment of the protein of Seq ID NO 2, and further in the absence of any recited activity.

Applicants respectfully disagree and traverse. However, solely in the interest of expediting prosecution, Applicants have canceled recitation (m) of claim 23. Applicants have also canceled the corresponding dependent claim. Accordingly, Applicants have obviated the

rejection under 35 U.S.C. § 112, first paragraph, and therefore respectfully request that the rejection be withdrawn.

IV. Rejections of the Claims under 35 U.S.C. §§ 102 and/or 103.

The Examiner has rejected claims 23, 36, and 40. The Examiner contends that the claims are rejected "under 35 U.S.C. § 102() [sic] as anticipated by, or in the alternative, under 35 U.S.C. § 103(a) or (b) as obvious over any one of Hillier et al (AA443286, AA044549, w74664 OR w74558)." (*See*, Paper No. 12, Pages 5-6, Paragraph 5.)

Applicants respectfully disagree and traverse. However, solely in the interest of facilitating prosecution, Applicants have canceled recitation (m) of claim 23 and the corresponding dependent claim. Accordingly, Applicants have obviated any rejection of these claims, and therefore respectfully request that the rejections under 35 U.S.C. §§ 102 and/or 103 be withdrawn.

V. Allowable Claims.

Applicants acknowledge the Examiner's indication that, with the exception of claims 23(m), 23(q), 36, and 40, the remaining claims and claim limitations are free of the art and appear to be in condition for allowance.

Conclusion

In view of the foregoing remarks, applicants believe that all of the Examiner's rejections have been overcome and this application is now in condition for allowance. An early notice to that effect is urged. The Examiner is invited to call the undersigned at the phone number provided below if any further action by applicant would expedite the examination of this application.

B

Finally, if there are any fees due in connection with the filing of this paper, please charge the fees to our Deposit Account No. 08-3425. If a fee is required for an extension of time under 37 C.F.R. § 1.136 not accounted for above, such an extension is requested and the fee should also be charged to our Deposit Account.

Respectfully submitted,

Dated: May 8, 2000

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Enclosures
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